

REMARKS

The acceptance of the drawings filed on October 17, 2001 is noted with appreciation.

Claims 3, 5-10, 19-22 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Premo (U.S. Patent No. 2,579,857). Admittedly Premo teaches a combination layout tool having three side edges that intersect at opposite ends to form three angle corners. However, the element 30 of Premo is a center point hole spaced from one side edge, not a notch in one side edge as recited in claim 3. Also, the elements 31 of Premo are staggered needle point holes in parallel rows, not a plurality of laterally spaced elongated incremental angle slots in the member adjacent a side edge of the member opposite the one corner that extend in a direction in radial alignment with the notch in the one side edge as further recited in claim 3. Accordingly, claim 3 is submitted as clearly allowable.

Claims 5, 7-10, 19, 21, 22 and 24 depend from claim 3 and are submitted as allowable for substantially the same reasons in addition to reciting other novel features in the claimed combination. The staggered needle point holes 31 of Premo are not incremental angled slots, much less a 90° angled slot that extends in a direction perpendicular to the one side edge in alignment with the notch as recited in claim 5, or at least one additional elongated angle slot extending between the 5° angle slots that extends in a direction in radial alignment with the notch in the one side edge as recited in claims 7-9.

Moreover, exception is taken with the Examiner's statement that Premo teaches the tool comprising a triangular shaped slot 35 in the member in close proximity to the notch 30 for latching one end of a string through the triangular shaped slot that has been pulled over the notch and one of the angle slots, much less where the notch has a sharp corner facing the notch for latching one end of a string in the corner as recited in claim 10. The cutout 35 of Premo is a lettering guide portion, and doesn't have a sharp corner facing a notch in one side edge of the tool as claimed.

Claims 21, 22 and 24 also further patentably distinguish over Premo by reciting a plurality of elongated spaced apart parallel stud layout slots in the member extending in a direction perpendicular to the one side edge. The elements 26 of Premo are needle point holes, not elongated stud layout slots extending perpendicular to one side edge as claimed. Moreover, claims 22 and 24 further patentably distinguish over Premo, claim 22 by reciting that one of the stud layout slots is in alignment with the notch, and claim 24 by reciting two additional stud layout slots located on opposite sides of the one stud layout slot.

Claims 1, 2 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Premo in view of Palitto (U.S. Patent 2,593,914) in view of Roads (U.S. Patent 1,315,333). The Examiner admits that Premo does not disclose a combination layout tool comprising two $67\frac{1}{2}^{\circ}$ angle corners as claimed, but contends that it would have been obvious to modify the tool of Premo to include two such $67\frac{1}{2}^{\circ}$ angle corners as taught by Palitto. However, Palitto discloses a diamond parallelogram or rhombus having four sides, not a triangularly shaped member having three sides as suggested

by the Examiner. The element 9 of Palitto is a vertical cross line that bisects 135° angles between sides S2 and S1 and S3 and S4. Thus it is respectfully submitted that the Examiner has combined these references in light of applicant's teachings and certainly not from any teachings or suggestions found in the cited references, which is clearly improper. Accordingly, claims 1, 2 and 4 are submitted as clearly allowable.

Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Premo in view of Castleton (U.S. Patent 4,598,482). The Examiner admits that Premo does not disclose a tool comprising one or more rafter tail/ridge cut patterns formed in one side edge in spaced relation from the notch as claimed, but contends that it would have been obvious to modify the tool of Premo to include such patterns as taught by Castleton. However, claims 11, 12 and 15 ultimately depend from claim 3 and are submitted as allowable for substantially the same reasons.

Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Premo in view of Roads (U.S. Patent 1,315,333). The Examiner admits that Premo does not disclose a tool wherein there are at least two rafter tail/ridge cut patterns in one side edge in spaced relation from one another and from the notch, but contends that it would have been obvious to modify the tool of Premo to include at least two rafter tail/ridge cut patterns as taught by Roads, to provide a single tool with multiple uses as disclosed by Roads. However, the element 18 of Roads is a relatively long group or scale of graduations joined at their outer ends by a grouping in line 19, not at least two rafter tails/ridge cut patterns in one side edge of a tool in spaced

relation from one another as claimed. Accordingly, claims 12 and 13 are submitted as allowable in their own right in addition to being ultimately dependent on claim 3.

Claims 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Premo in view of Musham (U.S. Patent 2,039,333). The Examiner admits that Premo does not disclose a tool comprising tread and riser slots having inner ends terminating in closely spaced relation from one another and comprising a hole in the same plane in which the outer ends of the tread and riser slots terminate and being spaced from the outer end a distance corresponding to the distance between the outer ends as recited in these claims, but contends it would have been obvious to modify the tool of Premo to include tread and riser slots and a hole as taught by Musham in order to include a coordinate measuring system into the tool. However, the coordinate scale 16 of Musham comprises two graduated ground lines 17, 18 and a single slot 19 located at one end of the lines and at 90° thereto (Musham, column 2, lines 32-42), not tread and riser slots extending at 90° relative to one another and having inner ends terminating in closely spaced relation from one another and outer ends terminating in a plane parallel to one side of the member as recited in these claims. Also, the slot 24 of Musham is not a hole in the same plane in which the outer ends of the tread and riser slots terminate, much less wherein the hole is spaced from the outer end of the riser slot a distance corresponding to the distance between the outer ends of the tread and riser slots as further recited in claim 18. Accordingly, claims 16-18 are submitted as allowable in their own right in addition to being dependent on claim 3.

Claims 23 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Premo. The Examiner admits that Premo does not disclose a tool wherein a stud layout slot is spaced 16 inches from the one stud layout slot and wherein the other stud layout slot is spaced 8 inches from another side of the one stud layout slot as claimed, but contends that absent any criticality, these dimensions are only considered to be "optimum" value of the distance between the stud layout slots. However, the elements 26 of Premo are needle point holes, not elongated spaced apart parallel stud layout slots extending perpendicular to one side edge of the member, much less having the relative spacing recited in these claims. Accordingly, claims 23 and 25 are also submitted as allowable in their own right in addition to being dependent on claim 3.

Claims 6, 14 and 20 have been cancelled and claims 26-28 have been added. These newly added claims 26-28 are directed to a combination layout tool including *inter alia*, tread and riser slots in the member extending at 90° relative to one another and having inner ends terminating in closely spaced relation from one another and outer ends terminating in a plane parallel to the one side edge, substantially as set forth in claim 16, and are submitted as allowable for substantially the same reasons. Moreover, claim 28 further recites a hole in the member in the same plane in which the outer ends of the tread and riser slots terminate and spaced from the outer end of the riser slot a distance corresponding to the distance between the outer ends of the tread and riser slots, substantially as set forth in claim 18, and is further submitted as allowable for substantially the same reasons.

For the foregoing reasons, this application is now believed to be in condition for final allowance of all of the pending claims 1-5, 7-13, 15-19 and 21-28, and early action to that end is earnestly solicited. Should the Examiner disagree with applicant's attorney in any respect, it is respectfully requested that the Examiner telephone applicant's attorney in an effort to resolve such differences.

In the event that an extension of time is necessary, this should be considered a petition for such an extension. If required, fees are enclosed for the extension of time and/or for the presentation of new and/or amended claims. In the event any additional fees are due in connection with the filing of this amendment, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (Charge No. MCBCP0101USA).

Respectfully submitted,

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